

Town of Simsbury

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SIMSBURY, CONNECTICUT 06070

Office of Community Planning and Development

February 1, 2013

To: Simsbury Zoning Commission

Re: Clarification of Simsbury Zoning Regulation, Article Seven; Section C.9, Accessory Dwelling Units

The Planning Department regularly receives inquiries and requests from residents looking to build Accessory Dwelling Units (in-law apartments) at their residences. The current Zoning Regulations has allowed for such uses on a Special Exception basis since 2002, allowing residents to 'age in place' and offer more economic diversity in Simsbury's housing stock.

Certain restrictions in the current regulation are presenting undue hardships for a greater number of these requests. It is our expectation to have the Zoning Commission consider modifying these two portions of the existing regulations based on actual experiences of the Zoning Officers.

1. Article Seven, Section C.9, b.1- "*Eligibility for Conversion: The single family dwelling or accessory dwelling being converted to include an accessory dwelling unit must be in conformance with all applicable requirements of these regulations and must have been in existence for at least five years.*"

Here's the problem- The regulation, as written, requires the structure to have been in place for five years to be eligible for the creation of an accessory apartment. All too often it is a sudden health issue that necessitates the accessory apartment for an elderly person, and the "five year" requirement precludes their ability to benefit from this option. The "five year" requirement therefore defeats the very purpose the regulation was created to address.

Here's the solution- Eliminate the requirement for a structure to be in existence for five years.

Here's the recommendation- The staff recommends elimination of the wording, "and must have been in existence for at least five years." from this portion of the regulation.

2. Article Seven, Section C.9, b.2- "*Maximum Size: the gross floor area of an accessory dwelling unit may not exceed one third of the gross floor area of the single family dwelling or 1000 sq. ft., whichever is less. Existing accessory buildings may be expanded, however, the floor area of accessory dwelling units to be located therein shall not exceed 1000 square feet.*"

Here's the problem- There are a sizeable number of older homes in Simsbury that have total gross floor areas of between 1,000 sq. ft. and 2,000 sq. ft. The requirement that no accessory apartment can contain more than 1/3 the gross square footage of the primary dwelling limits the size of any accessory apartment

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to as little as 333 square feet. It is virtually impossible to create a useable apartment for an elderly parent containing at a minimum, a bedroom, some form of sitting area, a kitchen, and an accessible bathroom within that small a footprint.

Here's the solution- To allow for a useable accessory apartment, while still assuring that the apartment will be subordinate, in both size and use, to the primary dwelling, we would propose to limit the accessory apartment to $\frac{2}{3}$ the gross footage of the primary dwelling or 1,000 sq. ft. whichever is less.

Here's the recommendation- Change the requirement limiting the size of the accessory dwelling from $\frac{1}{3}$ the gross footage of the primary structure (or 1,000 sq. ft. max.) to $\frac{2}{3}$ the gross footage of the primary dwelling (or 1,000 sq. ft. max.). This will allow an accessory dwelling that is functional in size while still guaranteeing that the accessory dwelling is subordinate, in both size and use, to the primary dwelling.

ARTICLE SEVEN
SECTION C. 9. (b.1. & b.2)

e. No additional subdivision or resubdivision of the original lot or created lot shall be permitted until a fifty (50) foot right-of-way has been provided to all lots thereafter created and further until all regulations for subdivision have been complied with.

f. A plan shall be submitted at a scale of not less than 1"=40' and shall show as applicable the following data:

1. Boundaries of the property certified to a State of Connecticut A-2 Map survey standard.
2. The location of all existing and proposed water supply wells, septic systems, septic system reserve areas, and sewer and water lines.

g. Each building lot shall meet the following criteria unless waived in part or whole by the Planning Commission:

1. Each undeveloped lot shall be of a size and configuration that will contain, exclusive of the required side, front, and rear yards, a rectangle of the size required in the following chart:

Zone	Minimum Dimension (feet)	Minimum Area (square feet)
R-160	96	14,400
R-80	96	14,400
R-40	80	10,000

2. The rectangle contained within each undeveloped building lot shall not contain land in the following classifications:


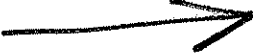
- a. Inland wetlands as defined by the Town of Simsbury Inland Wetlands and Watercourses Regulations.
- b. Floodplain areas as defined by the Town of Simsbury regulations or ordinance of the Town of Simsbury.
- c. Land with an average slope, as measured over any distance of fifty (50) feet within the rectangle, greater than 20 percent.

9. Accessory Dwelling Units (adopted June 24, 2002)

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- a. Purpose: The purpose of this section is to implement the recommendations of the 2007 Plan of Development, and as it may be amended by providing and preserving housing for all the population

while at the same time preserving the appearance and character of the Town's neighborhoods by permitting, by special exception, the creation of a single accessory dwelling unit incidental and subordinate to an existing single family dwelling.

- b. A single-family dwelling located in any residential zone may be converted to include one accessory dwelling unit subject to the issuance of a special exception by the Zoning Commission and the following conditions:

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1. Eligibility for Conversion: The single family dwelling or accessory dwelling being converted to include an accessory dwelling unit must be in conformance with all applicable requirements of these regulations and must have been in existence for at least five years.
 2. Maximum Size: The gross floor area of an accessory dwelling unit may not exceed one third of the gross floor area of the single family dwelling or 1000 sq. ft., whichever is less. Existing accessory buildings may be expanded, however, the floor area of accessory dwelling units to be located therein shall not exceed 1000 square feet.
 3. Occupancy: A principal owner of the single-family dwelling must reside in either the primary dwelling unit or the accessory dwelling unit. Said owner shall certify such residence to the Zoning Commission by affidavit at the time of initial application.
 4. Entrances: The primary dwelling unit and the accessory dwelling unit shall have separate entrances. The separate entrances may be from a common hall.
 5. Driveways: No additional driveway shall be created for the purpose of serving an accessory dwelling unit.
 6. Parking: There must be at least one off-street parking space dedicated to the accessory dwelling unit.
 7. Compliance with Other Regulations: The accessory dwelling unit must comply with all applicable building, fire and health code regulations.
 8. Water and Sewers: If the single-family dwelling is served by public water and/or public sewer, the accessory dwelling unit must also be served by public water and/or public sewer. If the single family dwelling is served by a well and/or a septic system, such well and/or septic system must be capable of serving the accessory

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dwelling unit as determined by the Farmington Valley Health District.

9. Continuation of Accessory Dwelling Unit: Upon the sale of a single-family dwelling having an accessory dwelling unit, the new owner(s) shall file, within thirty days of the transfer of the property, a notice with the Zoning Commission stating whether the new owners intend to continue the accessory dwelling unit. If the new owners intend to continue the use, a principal owner shall also file with the Zoning Commission an affidavit of occupancy in accordance with subsection 3 of this section within thirty days of the transfer of the property.
10. Application Requirements: Application for a special exception for an accessory dwelling unit shall be made on a form proved by the Office of the Zoning Enforcement Officer. The application shall include a plot plan showing the location of the single-family dwelling, the location of the proposed accessory dwelling unit, the floor plan of the proposed accessory dwelling unit, any proposed changes to exterior of the single-family dwelling or an existing accessory building serving the single-family dwelling, the location of parking serving the proposed accessory dwelling unit, the location and design of entrance(s) to the proposed dwelling unit, a list of owners of all abutting property, and an application fee as required by the Town fee schedule.



10. Standards

In considering the proposed project or use the Commission shall be guided by the following:

- a. The need for the proposed use in the proposed location.
- b. The existing and future character of the neighborhood in which the use is to be located.
- c. The location of main and accessory buildings in relation to one another.
- d. The height and bulk of buildings in relation to other structures in the vicinity.
- e. Traffic circulation within the site, amount, location, and access to parking, traffic load or possible circulation problems on existing streets.
- f. Availability of water to the site and adequate disposal of sewage and storm water.